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November 30, 1998

HAND DELIVERY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**Re: In the Matter of Carriage of the Transmissions of Digital Television
Broadcast Stations, Amendments to Part 76 of the Commission's Rules**

CC Docket No. 98-120

Dear Ms. Salas:

On behalf of Cablevision Systems Corporation, I today sent the attached presentation to the Commission staff indicated below. I am submitting two copies of this notice and the attachment in accordance with Section 1.1206(b)(1) of the Commission's Rules.

Sincerely,



Tara M. Corvo

cc: Chairman William E. Kennard
Commissioner Harold Furchtgott-Roth
Commissioner Susan Ness
Commissioner Michael Powell
Commissioner Gloria Tristani
Kathryn Brown, Chief of Staff
Deborah Lathen, Chief, Cable Services Bureau
Lauren Lynch Flick, Esq., Counsel to WXTV

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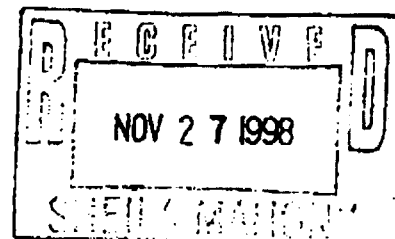
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CABLEVISION

CHARLES F. DOLAN



November 25, 1998

The Honorable William E. Kennard
Chairman
Federal Communications Commission
1919 M Street, NW, Room 814
Washington, DC 20554

Re: Must Carry

Dear Chairman Kennard:

I am writing to draw your attention to a certain must carry dispute that confirms my serious and growing concern that the federal must carry regime is turning out to do more harm than good for this country's cable consumers. The specific dispute involves a must-carry request by WXTV, a New Jersey-based broadcast station. I should emphasize at the start that WXTV is an innovative broadcast station that brings welcome diversity and a unique brand of programming to the television marketplace. But, as just noted, the must carry dispute that is going on between Cablevision and WXTV raises larger issues that extend well beyond WXTV.

The key facts of the dispute are these. In full compliance with the must carry regime's core carriage requirement, WXTV is currently distributed on *all* but one of Cablevision's systems in the New York ADI, reaching over 99.5% of Cablevision's roughly 2.64 million subscribers in the ADI. The one system that WXTV does not run on -- a small 9000 subscriber system -- is one in which the signal has not yet qualified for carriage.

At some point in 1996, WXTV notified Cablevision that, among other things, it would like to exercise its statutory right under the must carry regime to run specifically on its over-the-air channel -- channel 41 -- and to do so on *every* Cablevision system in the New York ADI. (The only acceptable alternative, in WXTV's view, was a premium channel position between channel 1 and channel 13 -- a channel position it has no legal right to.) Cablevision understandably expressed concern over this request for ubiquitous channel 41 placement, because moving WXTV to channel 41 would, for many systems, require Cablevision to incur substantial uncompensated costs and cause significant disruption and inconvenience to our customers. Our initial estimates suggest that the overall costs would approach 4 million dollars. In one system alone, the costs would exceed 1 million dollars. These costs relate to the materials and operations required to roll Cablevision service trucks to tens of thousands of customers' premises and to have Cablevision technicians reconfigure channel "traps" located near these premises.

Moreover, because such major network reconfigurations would entail visits to customers' premises and new channel lineups, they would cause significant disruption and inconvenience to our customers. Lastly, as the quantity and diversity of programming continue to proliferate, it is expected that consumers will increasingly want the programming they receive placed into categories -- sports, news, movies, etc. -- and to have the channels that carry that programming grouped into discrete channel blocks. Having to place broadcast stations such as WXTV on a specific channel throughout an ADI would make it all but impossible to create and maintain such channel blocks.

In our many discussions with WXTV, we made various attempts (especially in the last six months) to arrange mutually acceptable alternative channel positioning. These attempts failed, however, and on October 6, 1998, WXTV notified Cablevision in a letter that unless Cablevision complied with WXTV's demand for ubiquitous channel 41 placement, WXTV would file a formal complaint with the Commission.

In a return letter to WXTV, Cablevision recently responded to WXTV's formal demand for ubiquitous channel 41 positioning, arguing that the must carry rules do not, and should not, entitle a broadcast station to demand such positioning where the costs are as great as they are here. The purpose of this letter, however, is to draw your attention to the larger public interest issues that this dispute implicates.

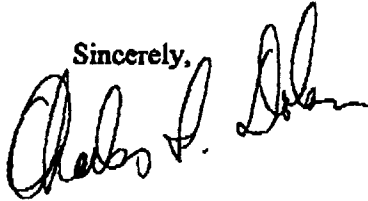
I have long believed that policy makers in Washington do not fully appreciate the extent to which must carry burdens consumers, as opposed to cable operators. It is one thing, from a public interest perspective, for cable operators to be forced to make channel capacity available for broadcast programming; it is quite another for the government to require that consumers pay for such programming as part of their basic tier cable rate -- which makes that rate greater than it would otherwise be. But this is exactly what the must carry regime, in combination with the rule that must carry signals be carried on the non-optional basic tier, requires. In this regard, the must carry regime is also a "must buy" regime. Cable policy makers' failure to fully appreciate the burdens "must buy" places on consumers is particularly ironic, I think, in light of the fact that policy makers are becoming increasingly concerned over what they regard as the lack of choice that cable consumers face with respect to programming. Why it has not occurred to policy makers that the government's own "must buy" rules are major contributors to the problem is not clear to me.

In any event, the must carry dispute between Cablevision and WXTV underscores that the real burden of must carry on cable operators, and ultimately on consumers, is the *uncompensated* nature of the carriage. In most "forced access" regimes -- program access, leased access, incumbent telephone unbundling, etc. -- Congress has required that the company being forced to provide access be compensated in some way for that access. In the must carry context, however, Congress decided that broadcasters would be entitled to up to one-third of the channel capacity of any cable system without having to pay anything. This is consistent with a long history of the government giving broadcasters valuable real estate for free. Consider the billions of dollars in public airwaves that Congress recently gave away to broadcasters in order for them to provide digital television services.

What WXTV is seeking -- ubiquitous channel positioning without any consideration given to legitimate and costly operational and customer concerns -- significantly increases the burdens imposed by the uncompensated nature of must carry. Specifically, if WXTV ultimately prevails, it will mean that cable operators are legally obliged not only to give away to broadcast stations up to one-third of every system's valuable channel capacity, but also to spend millions of extra dollars reconfiguring their systems to ensure that broadcast stations run on their preferred channel position everywhere in an ADI -- reconfigurations that, as discussed above, also preclude cable operators from organizing their programming into consumer-friendly channel blocks. The real losers here are consumers who are ultimately paying (at least in part) not only the costs of programming they may not want, but also the costs of running that programming on a preferred channel position.

Thank you for your consideration.

Sincerely,



cc: Commissioner Harold Furchtgott-Roth
Commissioner Susan Ness
Commissioner Michael Powell
Commissioner Gloria Tristani
Kathryn Brown, Chief of Staff
Deborah Lathen, Chief, Cable Services Bureau

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